UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/766,922	01/30/2004	Koki Okamura	KP-9698	3946

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EXAMINER
LEE, JOHN W

ART UNIT	PAPER NUMBER
2624	

MAIL DATE	DELIVERY MODE
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _29 August 2007_.

2a)☒ This action is **FINAL**.　　2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _1-20_ is/are pending in the application.

　　4a) Of the above claim(s) _11_ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) _1-10 and 12-20_ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

　　Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

　　Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

　　a)☐ All　b)☐ Some *　c)☐ None of:

　　　1.☐ Certified copies of the priority documents have been received.

　　　2.☐ Certified copies of the priority documents have been received in Application No. _____ .

　　　3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

　　* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)
2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3)☒ Information Disclosure Statement(s) (PTO/SB/08)
　　Paper No(s)/Mail Date _20070622_.

4)☐ Interview Summary (PTO-413)
　　Paper No(s)/Mail Date. _____ .
5)☐ Notice of Informal Patent Application
6)☐ Other: _____ .

DETAILED ACTION

Information Disclosure Statement

1.   An initialed and dated copy of Applicant's IDS form 1449, Paper No. 20070622,

is attached to the instant Office action.

2.   The response received on 29 August 2007 has been placed in the file and was

considered by the examiner. An action on the merits follows.

Response to Amendment

3.   The applicant's amendments filed on 29 August 2007 have been fully

considered.

Objections

A. Claim 10

Applicant's arguments to the objection to claim 10 have been fully considered

and are persuasive. The objection to claim 10 is hereby withdrawn.

Rejection

A. 35 U.S. C. § 101

Applicant's arguments with respect to claims 10-11 are rejected under 35 U.S.C.

§101 have been considered and are persuasive. The rejection to claims 10-11 under 35

U.S.C. §101 is hereby withdrawn.

Response to Arguments

4.   Applicant's arguments with respect to claims 1-10 and 12-20 have been

considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

5.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed
> or described as set forth in section 102 of this title, if the differences between the
> subject matter sought to be patented and the prior art are such that the subject
> matter as a whole would have been obvious at the time the invention was made
> to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was
> made.

6.   Claims 1-10 and 12-20 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Takiguchi (US 5,130,935) in view of Adobe Photoshop 7.0 ("Adobe

Photoshop 7.0: Classroom in a Book", hereinafter, "Photoshop"), and further in view of

Yamakawa (US 6,184,860).

Regarding claim 1, Takiguchi discloses a method for correcting a facial image

displayed on a monitor ("a skin color correction image processing apparatus using

image data from a facial image (Fig. 7) using a computer (Fig. 4; col. 2, lines 64-68; col.

3, lines 1-5)"), said method comprising: extracting pixels (Figs. 1-1; col. 2, lines 30-32,

"L*", "u'", "v'", "Luv conversion unit") representing a plurality of specific areas from said

facial image (Fig. 7; col. 5, lines 22-41, "Takiguchi' invention is about skin color

correction, and skin color itself has pixels that can cover a plurality of areas"). However,

Takiguchi does not disclose rest of the claim limitations. Instead of Takiguchi,

Photoshop discloses detecting a position of a cursor in said facial image displayed on

said monitor ("Photoshop is a well known and widely used image processing software

that can change any images such as facial image to change the color of skin, hair,

teeth, and even eyes by running on a computer and displaying on a monitor with a

cursor on the screen by detecting or pointing the area that the user wants to modify by

using the tools such as the Marquee tool, Lasso tool, and the Magic wand tool (pages

104-125)"). Yamakawa discloses selecting a correction item to be performed out of

plural correction items, each of said plural correction items corresponding to each of

said plurality of specific areas ("Yamakawa discloses an image editing apparatus that

suggests various method of correction of the selected partial picture data in the form of

a menu together with the expected result of correction, so that the operator can effect

correction by selecting one of the suggested items of correction, whereby the correction

of a picture can be conducted easily (col. 23, lines 9-17)"), and if a pixel pointed to said

cursor is in one of said plurality of specific areas area corresponding to said correction

item to be performed, subjecting said pointed to pixel to a correction process in

accordance with said corresponding correction item ("Yamakawa discloses an image

editing apparatus that suggests various method of correction of the selected partial

picture data in the form of a menu together with the expected result of correction, so

that the operator can effect correction by selecting one of the suggested items of

correction, whereby the correction of a picture can be conducted easily (col. 23, lines 9-

17)").

It would have been *prima facie* obvious to one of ordinary skill in the art at the

time the invention was made to use Photoshop and Yamakawa's invention in

Takiguchi's invention to provide an image editing apparatus that enables the operator to

efficiently process and edit various images as suggested by Yamakawa (col. 1, lines 11-15).

Regarding claims 2, 4, and 6-7, it is well known and widely used that Photoshop can be used to correct the color of the skin, red-eye, teeth, and hair of the facial image. Takiguchi further teaches that the number of image data which exist within a predetermined region on a (u,v), chromaticity diagram and which are among input color image data is counted, and when the counted number is smaller than a predetermined value, the correcting operation is not executed (abstract). The difference between a predetermined coordinate point and a coordinate point at which the largest counted number of image data exist is obtained, and the image data within the predetermined region are corrected (abstract).

Regarding claims 3, 5, and 9, Photoshop further has functions, that the user can select different colors for changing the color of interest area of the image, such as Replace Color dialog box, eyedropper tool (pages 89-92), Color palette group having a Swatch palette, brush, and etc (pages 229-245).

Regarding claim 8, Photoshop further discloses that said pointed to pixel is corrected to a same color as another pixel in said hair area ("Photoshop has functions-heal brush and patch tools that can be used to retouch and change the colors with the same colors of the objects inside the image (pages 201-211)").

Regarding claim 10, claim 10 is analogous and corresponds to claim 1. Photoshop is a software program that runs on a computer. For further explanation, refer claim 1 rejection.

Regarding claim 12, Takiguchi discloses a method for correcting a facial image

displayed on a monitor ("a skin color correction image processing apparatus using

image data from a facial image (Fig. 7) using a computer (Fig. 4; col. 2, lines 64-68; col.

3, lines 1-5)"), said method comprising: extracting pixels from a plurality of specific facial

feature areas (Figs. 1-1; col. 2, lines 30-32, "L*", "u'", "v'", "Luv conversion unit") from

said facial image based on facial features identified in said facial image (Fig. 7; col. 5,

lines 22-41, "Takiguchi' invention is about skin color correction, and skin color itself has

pixels that can cover a plurality of areas"). However, Takiguchi does not disclose rest of

the claim limitations. Instead of Takiguchi, Photoshop discloses detecting a position of a

cursor in said facial image displayed on said monitor ("Photoshop is a well known and

widely used image processing software that can change any images such as facial

image to change the color of skin, hair, teeth, and even eyes by running on a computer

and displaying on a monitor with a cursor on the screen by detecting or pointing the

area that the user wants to modify by using the tools such as the Marquee tool, Lasso

tool, and the Magic wand tool (pages 104-125)"). Yamakawa discloses providing a

plurality of image correction items, each of said plurality of image correction items

corresponding to each of said plurality of specific facial feature areas ("Yamakawa

discloses an image editing apparatus that suggests various method of correction of the

selected partial picture data in the form of a menu together with the expected result of

correction, so that the operator can effect correction by selecting one of the suggested

items of correction, whereby the correction of a picture can be conducted easily (col. 23,

lines 9-17)"), selecting one of said plurality of image correction items of said plurality of

image correction items ("Yamakawa discloses an image editing apparatus that suggests various method of correction of the selected partial picture data in the form of a menu together with the expected result of correction, so that the operator can effect correction by selecting one of the suggested items of correction, whereby the correction of a picture can be conducted easily (col. 23, lines 9-17)"), determining a corresponding one of said plurality of specific facial feature areas based on said selecting one of said plurality of image correction items ("Yamakawa discloses an image editing apparatus that suggests various method of correction of the selected partial picture data in the form of a menu together with the expected result of correction, so that the operator can effect correction by selecting one of the suggested items of correction, whereby the correction of a picture can be conducted easily (col. 23, lines 9-17)"), and correcting a pixel in said facial image in accordance with said selected one of said plurality of image correction items, said pixel corresponding to said position of said cursor when said position of said cursor is in said corresponding one of said plurality of specific facial feature areas ("Yamakawa discloses an image editing apparatus that suggests various method of correction of the selected partial picture data in the form of a menu together with the expected result of correction, so that the operator can effect correction by selecting one of the suggested items of correction, whereby the correction of a picture can be conducted easily (col. 23, lines 9-17)").

Regarding claim 13, Yamakawa further discloses identifying said facial features in said facial image ("Yamakawa discloses an image editing apparatus that suggests various method of correction of the selected partial picture data in the form of a menu

together with the expected result of correction, so that the operator can effect correction

by selecting one of the suggested items of correction, whereby the correction of a

picture can be conducted easily (col. 23, lines 9-17). Moreover, to have these function, it

is readily apparent and inherent that Yamakawa's invention will identify suggested items

for correction.") and dividing said facial image into said plurality of specific facial feature

areas based on said identified facial features ("Yamakawa discloses an image editing

apparatus that suggests various method of correction of the selected partial picture data

in the form of a menu together with the expected result of correction, so that the

operator can effect correction by selecting one of the suggested items of correction,

whereby the correction of a picture can be conducted easily (col. 23, lines 9-17)).

Moreover, to have these functions, it is readily apparent and inherent that Yamakawa's

invention will have a division process of the selected suggested items.").

Regarding claim 14, Takiguchi further discloses determining said facial features

on a basis of geometric information comprising at least one of facial feature size, a

position of each specific facial feature area with respect to said facial image, and a

distance between said specific facial feature areas (abstract; Figs. 2, 3, 8-11, col. 3,

lines 18-68; col. 4, lines 1-22, "predetermined region", "u-v chromaticity", "reference skin

color line", "su", and "sv").

Regarding claims 15 and 16, Photoshop is a well known and widely used image

processing software that can change any images such as facial image to change the

color of skin, hair, teeth, and even eyes by running on a computer and displaying on a

monitor with a cursor on the screen by detecting or pointing the area that the user wants

to modify by using the tools such as the Marquee tool, Lasso tool, and the Magic wand tool (pages 104-125). Yamakawa further discloses an image editing apparatus that suggests various method of correction of the selected partial picture data in the form of a menu together with the expected result of correction, so that the operator can effect correction by selecting one of the suggested items of correction, whereby the correction of a picture can be conducted easily (col. 23, lines 9-17).

7.　　Claims 1-10 and 12-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Takiguchi (US 5,130,935) in view of Adobe Photoshop 7.0 ("Adobe Photoshop 7.0: Classroom in a Book", hereinafter, "Photoshop"), and further in view of Yamakawa (US 6,184,860) and Stuppi et al. (US 7,002,546).

Regarding claims 17-20, Takiguchi, Photoshop, Yamakawa disclose all the previous claim limitations including cursor being in a skin, eye, teeth, or a hair area and said selected one of said plurality of image correction items comprises a skin, eye, teeth, and a hair by the fact that Photoshop is a well known and widely used image processing software that can change any images such as facial image to change the color of skin, hair, teeth, and even eyes by running on a computer and displaying on a monitor with a cursor on the screen by detecting or pointing the area that the user wants to modify by using the tools such as the Marquee tool, Lasso tool, and the Magic wand tool (pages 104-125). However, comparing luminance Y and chromaticities Cb, Cr of said pixel with luminance Y' and chromaticities Cb', Cr' of a predetermined target skin color, eye color, teeth color, or a hair color are not disclosed by Takiguchi, Photoshop, or Yamakawa. Instead of Takiguchi, Photoshop, or Yamakawa, Stuppi discloses a

processor configured to compare the calculated chromaticity and luminance values with desired chromaticity and luminance values, respectively and a controller, operationally connected to the processor, that is configured to adjust one or more of the first radiant power output and the second radiant power output in response to a difference between the calculated chromaticity and luminance values and the desired chromaticity and luminance values (claim 1).

It would have been *prima facie* obvious to one of ordinary skill in the art at the time the invention was made to use Photoshop, Yamakawa's invention, and Stuppi's invention in Takiguchi's invention to provide an image editing apparatus that enables the operator to efficiently process and edit various images as suggested by Yamakawa (col. 1, lines 11-15).

Conclusion

8.   **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

9.　　　Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Wahnkyo Lee whose telephone number is (571) 272-9554. The examiner can normally be reached on Monday - Friday (Alt.) 7:30 a.m. - 5:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jingge Wu can be reached on (571) 272-7429. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

John W. Lee
(AU 2624)

SUPERVISORY PATENT EXAMINER